



California Regional Water Quality Control Board

San Diego Region



Terry Tamminen
Secretary for Environmental
Protection

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Arnold Schwarzenegger
Governor

April 23, 2004

Ms. Deborah Van Huis
Project Manager
KB Home Coastal Inc.
12355 El Camino Real, Suite 100
San Diego, CA 92130

Certified Mail – Return Receipt Requested

7003 3110 0006 1702 0494

In reply refer to:

IC:14-1033.02:kneds

Dear Ms. Van Huis:

SUBJECT: STATUS OF COMPLIANCE OF ENROLLMENT WITH ORDER NO. 2001-96, NPDES NO. CAG919002

**COMPLAINT NO. R9-2004-0116 FOR ADMINISTRATIVE CIVIL
LIABILITY FOR MANDATORY MINIMUM PENALTY UNDER WATER
CODE § 13385, VIOLATION OF ORDER NO. 2001-96, NPDES
NO. CAG919002**

**FACILITY: KB HOME COASTAL INC., MAR LADO PUMP STATION
CONSTRUCTION DEWATERING, 401 FOUSSAT DRIVE, OCEANSIDE,
CALIFORNIA**

Request for Termination

The California Regional Water Quality Control Board, San Diego Region (Regional Board) has reviewed your March 11, 2004 request for termination of enrollment to discharge pursuant to Order No. 2001-96, *General Waste Discharge Requirements for Groundwater Extraction and Similar Waste Discharges From Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters Within the San Diego Region Except for San Diego Bay*, NPDES Permit No. CAG919002. On April 1, 2003 the Regional Board Executive Officer enrolled your facility under the general groundwater extraction permit for the discharge of groundwater to the San Luis Rey River from the Mar Lado Pump Station Construction Dewatering, 401 Foussat Drive, Oceanside, California.

It is our understanding that discharges of extracted groundwater from the above project site have been terminated. The Regional Board is unable to terminate your enrollment under Order No. 2001-96 at this time due to unresolved violations of effluent limitations for Turbidity, Total Nitrogen, and Total Phosphorus reported in the *January 2004 Monthly Monitoring Report*. Subsequent to resolution of the violations the Regional Board will continue to process your request to terminate enrollment.

California Environmental Protection Agency

Complaint No. R9-2004-0116

Enclosed find Complaint No. R9-2004-0116, Administrative Civil Liability with Mandatory Minimum Penalty, for the amount of \$12,000 for violations of the effluent limitations established by Order No. 2001-96.

The *January 2004 Monthly Monitoring Report* submitted for your facility identified violations of effluent limitations for Turbidity, Total Nitrogen, and Total Phosphorus as shown below:

**Violation Summary for Mar Lado Pump Station Groundwater Extraction
January 2004 Monthly Monitoring Report**

Date of Violation	Violation	Permitted Limitation	Reported or Calculated Value	Percent Exceedance
1/7/04	Turbidity	(*)	Upstream: 1.2 NTU Downstream: 22 NTU	NA
1/7/04	Total Nitrogen Instantaneous Maximum	2.0 mg/l	2.9 mg/l	45 %
1/7/04	Total Nitrogen Average Monthly	1.0 mg/l	2.9 mg/l	95 %
1/7/04	Total Phosphorus Instantaneous Maximum	0.2 mg/l	0.29 mg/l	45 %
1/7/04	Total Phosphorus Average Monthly	0.1 mg/l	0.29 mg/l	95 %

(*) Shall not exceed the ambient turbidity of the surface water at any time.

Water Code section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation. A serious violation is a waste discharge that violates an effluent limitation contained in the applicable waste discharge requirements for a Group I pollutant, such as Total Nitrogen and Total Phosphorus, by 40 percent or more. Section 13385(i)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each chronic violation whenever the person violates a waste discharge requirement four or more times in any period of six consecutive months. Therefore, under Water Code section 13385 the amount of the mandatory minimum penalty that must be assessed for the Total Nitrogen and Total Phosphorus exceedance is \$12,000. The Turbidity limitation violation is considered the first chronic violation and is not included in the Mandatory Minimum Penalty.

Be aware that if KB Home Coastal Inc. intends to waive its right to a hearing before the Regional Board, you or an authorized agent must sign and return the enclosed waiver form with a cashier's check for the amount of civil liability indicated in the Complaint by 5:00 p.m., Monday, May 24, 2004. Waiver of the hearing constitutes admission of the validity of the allegation of violations in

the Complaint and acceptance of the assessment of civil liability in the amount of \$12,000 as set forth in the Complaint.

If KB Home Coastal Inc. does not elect to waive its right to a public hearing, a hearing is tentatively scheduled to be held at the Regional Board meeting on June 9, 2004, at the Regional Board Meeting Room, 9174 Sky Park Court, Suite 100, San Diego, CA 92123. The meeting is scheduled to begin at 9:00 a.m. In order for the Regional Board to fully consider any argument on your behalf, you should submit twenty copies of all documents, including exhibits, you intend to provide to the Regional Board by 5:00 p.m., Wednesday, May 26, 2004 as indicated in the enclosed *Submittal of Written Information Procedures*. Copies of material submitted will be forwarded to the Regional Board. An agenda for the hearing will be mailed to you not less than ten days before the hearing date.

This is to inform you that monitoring reports for periods subsequent to January 2004, as required by Order No. 2001-96, are no longer required to be submitted to this Regional Board as long as extracted groundwater is not discharged to surface waters.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

If you have questions regarding this letter please contact Ms. Sabine Knedlik at (858) 467-2725, or by e-mail at kneds@rb9.swrcb.ca.gov.

Respectfully,



JOHN H. ROBERTUS
Executive Officer

Enclosures: 1. ACL Complaint No. R9-2004-0116
 2. Waiver of Hearing Form
 3. Submittal of Written Information Procedures
 4. Hearing Procedures
 5. Pure Effect Inc., January 2004 Monitoring Report, Page 4, Laboratory
 Constituents

cc: 1. Mr. Michael E. Slaby, Sun-AG, Inc., 611 West Palm Avenue, Orange, CA 92868
 2. Mark Alpert, Regional Board

File: 14-1033.02
JRP:sk

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